

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

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| FILED | |
| Department of Business and Professional Regulation Deputy Agency Clerk | |
| CLERK | Brandon Nichols |
| Date | 10/5/2018 |
| File # | 2018-08324 |

**IN RE: PETITION FOR VARIANCE BY
NATALIYA TYUTYUNYK**

ORDER GRANTING PETITION

VW 2018-176

Petitioner, Nataliya Tyutyunykh, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on August 20, 2018. The Notice of the petition appeared in the Florida Administrative Register on August 23, 2018, in Volume 44 Number 165; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on September 20, 2018, in Daytona Beach, Florida. Petitioner made an appearance.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner is an applicant for licensure as a certified public accountant (CPA).
2. Rule 61H1-28.0052(1)(b), FAC, provides in part, “[c]andidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed.”
3. Petitioner passed the AUD portion of the CPA examination on August 3, 2016, and credit for that portion of the examination expired on February 3, 2018. Petitioner passed the REG portion of the CPA examination on November 3, 2016, and credit for that portion of the examination expired on May 3, 2018. Petitioner passed the BEC portion of the examination on March 7, 2017, and credit for that portion of the examination expired on September 7, 2018. Petitioner passed the FAR portion of the

examination on June 25, 2018, and credit for that portion of the examination will expire on December 25, 2019.

4. During the 18-month window, Petitioner states due to the restructured CPA examination (released on April, 2017) the release of examination scores were delayed which further delayed Petitioner's moving forward with her studies. Petitioner was scheduled to take the fourth examination (REG) on September 10, 2017, but due to Hurricane Irma, the examination was cancelled. She rescheduled the examination for December 2017, but due to a computer glitch, was unable to complete the examination. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of three (3) months and seven (7) days beyond the eighteen months provided in the rule to retain the passing score on the FAR portion of the examination until June 26, 2018, when she passed the fourth portion of the examination.

GROUND FOR APPROVAL

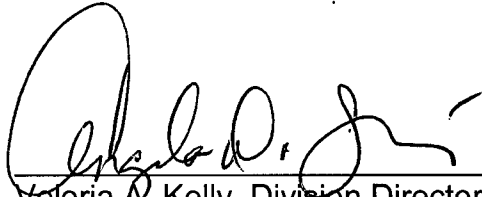
The Board determined the petition should be granted on the following grounds:

5. Petitioner established that the Board's full application of Rule 61H1-28.0052(1)(b), FAC, to her circumstances would violate principles of fairness and would impose a substantial hardship on her.

6. Petitioner established that, if she were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, FS.

This Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 2nd day of October, 2018, by
the Florida Board of Accountancy.



Veloria A. Kelly, Division Director

NOTICE TO APPLICANT

You may seek review of this Order, pursuant to Sections 120.569 and 120.57, FS, by filing a petition with the Division Director of the Board, 240 Northwest 76th Drive, Suite A, Gainesville FL 32607, within 21 days of receipt of this Order. If you dispute any material fact upon which the Board's decision is based, you may request a hearing before an administrative law judge pursuant to Section 120.57(1), FS; your petition must contain the information required by Rule 28-106.201, FAC, a copy of which is enclosed, including a statement of the material facts which are in dispute. If you do not dispute any material fact, you may request a hearing before the Board pursuant to Section 120.57(2), FS; your petition must include the information required by Rule 28-106.301, FAC, a copy of which is enclosed. If you request a hearing, you have the right to be represented by an attorney or other qualified representative, to take testimony, to call or cross-examine witnesses, to have subpoena and subpoena duces tecum issued, and to present written evidence or argument.

Pursuant to Section 120.573, FS, you are hereby notified that mediation pursuant to that section is not available.

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified mail to Nataliya Tyutyunyk, 22040 Palms Way Apt 203, Boca Raton, Florida 33523, and to Kenneth J. Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and Rachelle Munson, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 5th day of October, 2018.

Brandon M. Nichols

Jonathan Zachem, Secretary

Rick Scott, Governor

MEMORANDUM

TO: Jonathan Zachem, Secretary
Reginald Dixon, Chief of Staff

FROM: Paul Waters, Deputy Secretary

SUBJECT: Delegation of Authority

DATE: September 12, 2018



I, Paul Waters, hereby delegate to Angela Francis, signature authority on behalf of Director Veloria Kelly due to a medical emergency. All documents signed on Director Kelly's behalf should have a copy of this Delegation of Authority attached.

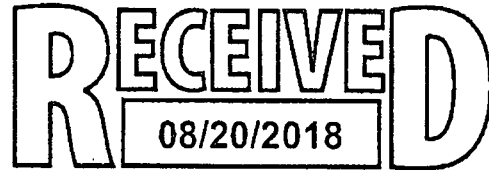
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**PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)
18 Month Rule**

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| FILED | |
| Department of Business and Professional Regulation Deputy Agency Clerk | |
| CLERK | Brandon Nichols |
| Date | 8/20/2018 |
| File # | |

Petitioner Information:

Nataliya Tyutyunyuk
22040 Palms Way apt 203
Boca Raton, FL 33433
(561) 617-4510



Attorney Information:

Not Applicable

Applicable Portions of the rules:

61H1-28.0052(1)(b) Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

Candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed. In the event all four test sections of the CPA Examination are not passed within the rolling eighteen-month period, credit for any test section(s) passed outside the eighteen-month period will expire and that test section(s) must be retaken.

The citation to the statute the rule is implementing:

Section 473.306 - Examination

VW 2018-176

Type of Action Requested:

The petitioner requests that the Board of Accountancy please waive Rule 61H1- 28.0052(1)(b), Florida Administrative Code (FAC) stated above due to the following circumstances.

Specific fact that demonstrate a violation of the principles of fairness that would justify a variance for the petitioner:

Petitioner believes that the lengthy grading process, delayed release of exam scores, and technical difficulties during one of the exams created a hardship for herself to complete all four CPA Exams within an 18-month rolling period.

1. During the 18-months window, the CPA examination format changed, resulting in a prolonged release of score results. The exam scores of AUD and BEC sections of the examination, taken by the Petitioner during the Q2 2017 testing window, were not released until August 22, 2017. Petitioner did not pass BEC portion of the examination during the Q2 2017 testing window. Once the delayed scores were released, Petitioner lost a testing window, since she did not have sufficient time to apply and to receive a new NTS to obtain an open slot for the examination before the Q3 2017 testing window was closed. This alteration of release score dates, as well as a lost testing window effected her initial planned exam dates, as her FAR exam was expiring 3/19/2018.
2. Petitioner was scheduled to take REG section of the examination on September 10, 2017, and on September 8, 2017 she was notified that the examination was cancelled due to hurricane Irma. The petitioner was forced to reschedule the exam.

3. December 9, 2017 the petitioner was scheduled for REG examination. During the exam at a Prometric Testing Center, due to a computer glitch she could not complete all of the simulations. January 30, 2018 due to technical difficulties experienced by Petitioner during the exam taken on December 9, 2017, NASBA granted free retake and NTS. Due to this exam being taken prior to busy season (70+ hour weeks), she did not have the capacity to prepare and retake the exam until after March 2018. Petitioner passed REG portion of the examination on May 17, 2018.

The Petitioner believes that if she had received her scores in a timely manner and had not encountered a computer glitch during one of her exams, she would have completed all four portions of the examination in the 18-months rolling period.

The reason why the variance requested would serve the purpose of the underlying statute:

To the petitioner's knowledge, she has met all the education requirements and is of good moral character.

Petitioner Statement:

From the most recent, release of scores, June 27, 2018 the Petitioner has now passed all four of the Sections necessary to be a CPA. The petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC to allow an extension of one (1) month and twenty-eight (28) days beyond the eighteen months provided in the rule to retain the passing score on the FAR portion of the examination, when she passed the forth portion of examination on May 17, 2018.